IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 78 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL
and
Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

C I T

Versus

SUBHASHBHAI VADILAL

Appearance:
MR BB NAIK with MR MANISH R BHATT for Petitioner
NOTICE UNSERVED for Respondent No. 1

CORAM : MR.JUSTICE J.M.PANCHAL
and
MR.JUSTICE M.S.SHAH

Date of decision: 08/01/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

In this reference at the instance of the revenue, the following question is referred for our opinion in

respect of Assessment Year 1975-76 :-

"Whether on the facts and in the circumstances of the case, the Appellate Tribunal has not erred in law in directing to take into account the depreciation in the value of the shares of Sayaji Mills Ltd. at the rate of Rs.108.75 per share, while computing the capital gains on the sale of shares of Rajesh Textile Mills Ltd. ?"

2. At the hearing of the reference, Mr BB Naik, learned counsel for the revenue fairly states that the controversy raised herein in concluded by a decision of this Court in CIT vs. Suhashbhai Vadilal (this very assessee), (1999) 239 ITR 362 wherein this Court held that the shares in Rajesh Textile Mills were received as a matter of right on the holding of the shares in Sayaji Mills Ltd. by the assessee and, therefore, the cost of shares of Rajesh Textile Mills Ltd. was the price that was paid for such shares plus the depreciation in the value of such shares of Sayaji Mills Ltd. (against which they were issued) at the rate of Rs.108.75 paise per share.

3. In view of the aforesaid decision, we answer the question in the affirmative i.e in favour of the assessee and against the revenue.

The reference accordingly stands disposed of with no order as to costs.

(J.M. Panchal, J.)

(M.S. Shah, J.)

sundar/-